

REMARKS

Claims 1-12 were pending in the instant application. Claims 1-12 have been amended and claim 13 has been added. Amendment of claims 1-12 should not be construed as an acquiescence to any of the rejections. Claims 1-13 will be pending upon entry of this amendment.

Support for the amendments to the claims and new claim 13 can be found throughout the specification and claims as originally filed. In particular, support for the amendments to claims 1-3, 6, and 11 can be found at, for example, page 12, lines 29-34 of the specification. Support for the amendment to claim 3 can be found at, for example, page 11, lines 22-30. Support for the amendment to claim 10 can be found at, for example, page 15, lines 7-19. No new matter has been introduced by the amendments to the claims or the new claim.

Information Disclosure Statement

An Information Disclosure Statement was filed in the instant application on June 5, 2002. Applicants note that the Examiner has not initialed the references listed on the Form PTO-1449 submitted therewith. Applicants respectfully request acknowledgement of the Examiner's consideration of the references submitted with the June 5, 2002 Information Disclosure Statement.

Priority

The Examiner has acknowledged the submission of application papers filed under 35 U.S.C. 119(a)-(d) based on an application filed in WIPO on July 26, 2000. The Examiner states that Applicant has not complied with the requirements of 37 C.F.R. 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any priority application. The Examiner has stated that a new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date. The Examiner has also noted that Applicants have stated on PTO-1390 that the international filing date of PCT/KR00/00809 was March 26, 2002.

Applicants respectfully submit that the instant application was filed under 35 U.S.C. §371 as a U.S. national stage application based on PCT/KR00/00809 as evidenced by the filing of a

Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO-1390), on March 26, 2002. PCT/KR00/00809 has an international filing date of July 26, 2000. As stated in M.P.E.P. 1893.03(b), "the filing date of the international stage application is also the filing date for the national stage application." Therefore, the instant national stage application is given a filing date of July 26, 2000. In support of this filing date, Applicants submit herewith a substitute Declaration which identifies PCT/KR00/00809 by application serial number and international filing date. Furthermore, Applicants submit herewith a replacement PTO-1390 which correctly identifies the international filing date of PCT/KR00/00809 as July 26, 2000. Therefore, Applicants respectfully request that the Examiner acknowledge the priority date of the instant application date as July 26, 2000.

Objections to the Specification

The specification was objected to because the Examiner contends that the proper SEQ ID NOs do not appear immediately subsequent to all sequences (e.g., page 7, lines 24, 27).

The specification has been amended to insert the appropriate sequence identifiers. Accordingly, Applicants respectfully request reconsideration and withdrawal of this objection.

The specification has also been objected to because the Examiner contends that trademarks used in the application should be capitalized wherever they appear and be accompanied by the generic terminology.

Applicants respectfully submit that trademarks used in the application have been capitalized and every effort has been made to prevent their use in any manner which might adversely affect their validity as trademarks, as required by M.P.E.P. §608(v)(I). Therefore, Applicants reconsideration and withdrawal of this objection is respectfully requested.

The Examiner also contends that the specification has not been checked to the extent necessary to determine the presence of all possible minor errors.

Applicants respectfully submit that the specification has been amended to correct minor typographical errors. Accordingly, Applicants respectfully request reconsideration and withdrawal of this objection.

Rejections Under 35 U.S.C. §112, First Paragraph

Claims 1-12 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. In particular, Examiner contends that the specification does not provide enablement for use of the name of the protein in the claims. The Examiner is of the opinion that the protein name does not define it in terms of structure or function.

Applicants respectfully traverse the rejection. However, in an effort to expedite prosecution of the application, and in no way acquiescing to the Examiner's rejection, Applicants have amended the claims to refer to specific sequence identifiers rather than the name of the protein. Accordingly, reconsideration and withdrawal of the rejection of claims 1-12 under 35 U.S.C. §112, first paragraph is respectfully requested.

Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 1-3 have been rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner is of the opinion that it is not clear what the term "represented as" means. Furthermore, the Examiner is of the opinion that, with respect to claim 3, it is not clear what the recited fraction is active as. The Examiner has suggested that, *e.g.*, disintegrin activity be recited.

Applicants respectfully traverse the rejection and submit that claims 1-3 are clear and definite. However, in an effort to expedite prosecution, and in no way acquiescing to the Examiner's rejection, Applicants have amended the claims such that they no longer recite the phrase "represented as."

With respect to claim 3, Applicants have amended the claim to refer to “active fractions having an inhibitory effect on platelet aggregation.” Accordingly, Applicants respectfully request reconsideration and withdrawal of the foregoing rejections under 35 U.S.C. §112, second paragraph.

The Examiner has also rejected claim 10 under 35 U.S.C. §112, second paragraph, as allegedly being incomplete for omitting essential steps. The Examiner contends that the omitted steps are: collecting either a cell lysate or supernatant prior to application to a hydrophobic column.

Applicants respectfully submit that the recited “active fraction” is clear. However, in an effort to expedite prosecution, and in no way acquiescing to the Examiner’s rejection, Applicants have amended claim 10 to explicitly refer to collection of supernatant from a culture containing the transformed microorganism. Accordingly, Applicants respectfully request reconsideration and withdrawal of the foregoing rejection.

Rejection Under 35 U.S.C. §102(a)

Claims 1-2 and 11-12 have also been rejected under 35 U.S.C. §102(a) as being anticipated by Hong et al. The Examiner notes that priority cannot yet be granted for the instant application. However, the Examiner states that Hong et al. provides for the purification of saxatilin and the cloning of recombinant saxatilin, and tests for its activity as a disintegrin.

Applicants respectfully traverse the foregoing rejection. Applicants respectfully submit that, as set forth above, the instant application was filed under 35 U.S.C. §371 as a U.S. national stage application based on PCT/KR00/00809. PCT/KR00/00809 has an international filing date of July 26, 2000. Therefore, the instant application is granted the filing date of July 26, 2000. Applicants submit herewith an executed substitute Declaration which lists the serial number and international filing date for PCT/KR00/00809 in support of this filing date. Hong et al. was published on January 1, 2002. Therefore, based on the July 26, 2000 filing date of the instant application, Hong et al. is not available to the Examiner as a prior art reference under 35 U.S.C. §102(a). Therefore, Applicants respectfully submit that the rejection of claims 1-2 and 11-12 under 35 U.S.C. §102(a) should be withdrawn.

Rejection Under 35 U.S.C. §103(a)

Claims 4-10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hong et al. in view of Hawrot (U.S. Patent No. 6,753,315). The Examiner states that Hong et al. does not provide for the specific vector and process of preparing recombinant saxatilin. The Examiner is of the opinion that in order to optimize yield and amount of correctly folded active saxatilin, one of skill in the art would have found it obvious to use the expression system utilized by Harwot, with a reasonable expectation of success.

Applicants respectfully traverse the foregoing rejection. As set forth above, Hong et al. is not available to the Examiner as a prior art reference under 35 U.S.C. §102. Therefore, Hong et al. is not available to support a rejection under 35 U.S.C. §103. Furthermore, Hawrot is not available as prior art under 35 U.S.C. §102 because Hawrot was issued on June 22, 2004, which is after the filing date of the instant application. Therefore, neither Hong et al. nor Hawrot is available to support a rejection of the claims under 35 U.S.C. §103. Accordingly, Applicants respectfully submit that the rejection of claims 4-10 under 35 U.S.C. §103(a) should be withdrawn.

Conclusion

In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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